

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	Chapter 11
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	Hon. Basil H. Lorch III

**TRUSTEE’S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH ATKINSON LIVESTOCK MARKET, LLC**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee (“Trustee”) for the bankruptcy estate (the “Estate”) of Eastern Livestock Co., LLC (“Debtor”), by counsel, respectfully moves the Court to approve a compromise and settlement of claims between the Trustee and Atkinson Livestock Market, LLC (“Atkinson”). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case (“Chapter 11 Case”) on December 6, 2010 (the “Petition Date”). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.
2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee’s Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.

3. On May 3, 2011, the Trustee, on behalf of Debtor's estate, filed Adversary Proceeding No. 11-59094 (the "First Adversary") against Atkinson. The Trustee asserted claims against Atkinson for breach of contract and account stated.

4. The Trustee filed the *Trustee's Chapter 11 Plan of Liquidation* on July 23, 2012 [Docket No. 1255] and the *First Amended Chapter 11 Plan of Liquidation* on October 26, 2012 [Docket No. 1490] ("Plan"). The Court entered an Order on December 17, 2012 [Docket No. 1644] ("Confirmation Order") confirming the Plan.

5. On December 27, 2012, the Trustee, on behalf of Debtor's estate, filed Adversary No. 12-59158 (the "Second Adversary") against multiple parties, including Atkinson. The Trustee asserted a claim against Atkinson for fraudulent transfer.

6. Atkinson has asserted defenses in the First Adversary and the Second Adversary.

7. The First Adversary and the Second Adversary were consolidated on November 15, 2013 under the caption of the First Adversary (the "Consolidated Cases").

The Settlement

8. The parties have negotiated a settlement of the claims and defenses between them asserted in the Consolidated Cases and have agreed to settle upon the terms and conditions set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A ("Settlement Agreement").

Pursuant to the Settlement Agreement, a) Atkinson shall pay the Trustee the total sum of Five Hundred and Thirty Thousand Dollars (\$530,000) ("Settlement Amount") in accordance with the payment schedule set forth in the Settlement Agreement; b) Atkinson and

the Trustee have agreed to the entry of the Agreed Judgment attached as Exhibit 1 to the Settlement Agreement (which shall be filed by the Trustee in the First Adversary); c) Atkinson Cattle Company LLC shall execute a Guaranty in the form attached as Exhibit 2 to the Settlement Agreement; and d) Atkinson and the Trustee shall mutually release and discharge claims between them as set forth in the Settlement Agreement.

9. In accordance with the terms of the Plan, the Settlement Amount received by the Trustee shall become part of the Collateral Fund (as that term is defined in the Plan).

Basis for Relief

10. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

11. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Dupoister v. Mary M. Holloway Found., 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc., 886 F.2d 921, 927 (7th Cir. 1989).

12. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the Estate. The claims asserted by the Trustee in the Consolidated Cases are disputed and would require litigation and trial expenses to resolve. Accordingly, continued litigation with Atkinson would result in significant expenses and delay and could result in a smaller recovery to the Estate.

13. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this

Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2015, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following party through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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